IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
CHAMBER SUMMONS NO. 487 OF 2005
IN
SUIT NO. 1070 OF 1997

Harish B. Gupta & Anr. ..Plaintiffs
versus
Jagdish S. Gupta & Ors. ..Defendants
And
Savitri J.Gupta ..Applicant

AND
CHAMBER SUMMONS NO. 259 OF 2005
IN
SUIT NO. 1070 OF 1997

Harish B. Gupta & Anr. ..Plaintiffs
versus
Jagdish S. Gupta & Ors. ..Defendants

WITH
CHAMBER SUMMONS NO. 486 OF 2005
IN
SUIT NO. 604 OF 2005

Harish B. Gupta & Anr. ..Plaintiffs
versus
Jagdish S. Gupta & Ors. ..Defendants
And
Savitri J. Gupta ..Applicant

Mr. Harakchand Gada i/b. Harkchand & Co. for the Plaintiffs.

Mr. J. R. Vakil for the Defendant No.1.

Mr. R. S. Tripathi with A. Gawli for Applicant.

CORAM : S. J. VAZIFDAR, J.
DATE : 20TH FEBRUARY,2006

P.C. :

1. Leave to amend the Chamber Summons No. 259

of 2005 by adding to the Schedule of Amendment, the draft amendments, tendered in Court, taken on record and marked ’X’ for identification.

2. The Applicant in Chamber Summons Nos. 486 of 2005 and 487 of 2005 alleges to be the beneficiary under a Will dated 13.12.2000 of one Smt. Vidyavati Shankarlal Gupta who expired on 21.10.2004. The Applicant is the daughter in law of the said deceased. The Applicant has filed Petition No. 189 of 2005 for probate of the said Will. Citations have been served and caveats have been filed therein.

3. The Plaintiffs, however, contend that the deceased subsequently left a Will dated 13.6.2004, under which the Applicant is not a beneficiary. They have also filed Petition No. 438 of 2005 for Probate of the Will dated 13.6.2004.

4. There is no dispute between the parties that it is necessary to protect the rival claims of all the parties in respect of one of the properties, which is the subject matter of the two suits, in which the deceased had a 75% share.

5. Chamber Summons No. 259 of 2005 has been filed by the Plaintiff for impleading the additional persons, who they claim are the rightful heirs of the deceased.

6. The resolution of the dispute so far as the estate of the deceased is concerned, will depend upon the outcome of the two Petitions for Probate of the said two Wills.

7. In the circumstances, the Chamber Summons No. 486 of 2005 is made absolute in terms of prayer (a). Chamber Summons No. 487 of 2005 is made absolute in terms of prayers (a), (b) and (c) . Chamber Summons No. 259 of 2005 is made absolute in terms of prayers (a), (b) and (c).

8. It is made clear that the aforesaid orders are without prejudice to the rights and contentions of all the parties.

9. Amendments of the three Chamber Summons shall be carried out within twelve weeks from today.

****